IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Banshilal v. State of Raj.& Ors.

S.B.CIVIL WRIT PETITION NO.5321/1993
under Articles 226 and 227 of the Constitution of India.

Date of Order : 9th February, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Rajesh Joshi, for the petitioner.
Mr. S.N.Tiwari, Dy.Govt.Advocate.

BY THE COURT :

The petitioner remained in employment of Manpura Gram Sewa Sahkari Samiti Ltd. in the capacity of Accounts Assistant from the year 1971 to 1973. The petitioner was charged for misappropriation of the funds of society and an order dated 19.9.1978 was passed by the Assistant Registrar, Cooperative Societies, Chittorgarh exercising powers under Section 74(6) of the Rajasthan Cooperative Societies Act, 1965 (hereinafter referred to as “the Act of 1965”). The petitioner being aggrieved by the order dated 4.12.1978 passed by the Assistant Registrar, Cooperative Societies, Chittorgarh under Section 74(6) of the Act of 1965 preferred an appeal before the Additional Registrar, Cooperative Societies, Jaipaur under Section 124 of the Act of 1965. The appeal preferred by the petitioner was rejected by the Additional Registrar by order dated 12.6.1991. Challenge was given by the

petitioner to the order passed by the appellate authority by way of filing a revision petition under Section 128 of the Act of 1965 before the State Government. The revision petition was also dismissed by the State Government vide order dated 17.8.1993. The petitioner by instant writ petition has given challenge to the above mentioned three orders.

By order dated 19.9.1978 the petitioner was held guilty for misappropriation of the funds of society and was held liable for recovery of the same amount.

The contention of counsel for the petitioner is that before proceeding under Section 74(3) of the Act of 1965 no proceedings under Section 74(1) of the said Act were conducted by the respondents. The petitioner has also contended that no specific charge as required under Section 74(3) of the Act of 1965 was framed against him. According to the petitioner opportunity to defend himself was not given to him by the respondents as he was not allowed to produce evidence and also if any evidence was recorded to prove the charge then the same was recorded behind his back and he was not allowed to cross examine them. It is also alleged by the counsel for the petitioner that the statements which were recorded and are at pages No.146, 153 and 165 of the record were the statements recorded by the auditor and not under the proceedings pertaining to Section 74(1) of the

Act of 1965. The petitioner has assailed validity of the order passed by the appellate authority as well as revisional authority on the count that the same are not speaking and reasoned orders.

A reply to the writ petition has been filed on behalf of the respondents denying all the above mentioned allegations.

This Court by order dated 3.10.1996 called the original record of the proceedings conducted under Section 74 of the Act of 1965 for examination. From perusal of record it was found that a notice under Section 74(1) of the Act of 1965 was issued by the Assistant Registrar, Cooperative Societies on 3.2.1976 which was treated served upon the petitioner. The notice dated 3.2.1976 provides all necessary details pertaining to the allegations which were subsequently adjudicated by the competent authority under Section 74(3) of the Act of 1965. The petitioner in response to the notice did not choose to file any explanation. The Assistant Registrar, Cooperative Societies, Chittorgarh after making necessary inquiry under Section 74(1) of the Act of 1965 framed a specific charge against the petitioner and the charge was served upon the petitioner under a notice dated 3.8.1976. The notice dated 3.8.1976 has not been placed on record by the petitioner. From perusal of record I found that notice dated 3.8.1976 is available on record at page 87. The notice is quite specific

and allegation levelled against the petitioner is not at all vague. It gives all necessary details on basis of which charge was framed against the petitioner. The petitioner submitted a reply to the notice dated 3.8.1976 wherein he denied the allegations levelled against him. The Assistant Registrar, Cooperative Societies after receiving the explanation submitted by the petitioner on 23.8.1976 conducted a detailed inquiry under Section 74(3) of the Act of 1965. From record I found that the petitioner effectively participated in the proceedings. The statements of the witnesses produced to substantiate the allegations were recorded in presence of the petitioner and he also cross examined those persons. The statements of the petitioner himself were recorded on 15.5.1978. He was also cross examined by Shri Gopidas, an another co-delinquent. Statements of Shri Uda s/o Kela, by caste Bhoi and Shri Gokul s/o Chunnilal were also recorded on 15.5.1978 at the instant of the petitioner in his defence. The statements available at pages 146, 153 and 165 were recorded during the regular course and not before auditor.

In view of it the contention of the petitioner that no proceedings as required under Section 74(3) of the Act of 1965 were conducted is not found correct from the record. On the contrary, the original record establishes it well that the proceedings under sub-sections (1), (2) and (3) of Section 74 of the Act of 1965 were

conducted by the respondents quite effectively and without any illegality. As such the contention of the counsel for the petitioner that opportunity to defend himself was not allowed is having no force.

The contention of counsel for the petitioner to the effect that the order passed by the appellate authority deserves to be quashed being a non-speaking and reasoned order, is also of no force.

I have perused the order passed by the appellate authority. The appellate authority has taken into consideration all the contentions raised by the petitioner and also record of the case.

So far as order of the revisional authority is concerned, though it does not deal with each and every contention raised by the petitioner in his revision petition but the same is passed by the revisional authority after considering the entire record made available to him. The revisional authority is not required to give his own finding on each and every contention raised by the revision petitioner. The order of the revisional authority stands on totally a different footing than the order passed by the original authority exercising quasi judicial powers and the appellate authority. The order passed by the revisional authority is not required

to be speaking and reasoned order as the orders required by the original quasi judicial authority and appellate authority should be. The revisional authority is required to satisfy itself with regard to legality and correctness of the orders sought to be revised on basis of the record.

In view of it in the present case the revisional authority has not committed any error while not dealing with all the contentions raised by the petitioner in revision petition.

In view of whatever stated above, I do not find any merit in the writ petition and the same, therefore, is dismissed.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.